



Tennessee Education Savings Account Program

When an ESA Student Reaches Age 18

Once your student becomes a legal adult on his/her 18th birthday, they are no longer considered a minor, and your student will assume certain rights previously held by you, the parent or guardian. This includes the right to sign contracts and make decisions regarding the student's education, including whether to remain enrolled in an Education Savings Account (ESA). Because of this, *well in advance* of your student reaching 18 years-of-age, decisions must be made about the management of your student's ESA to remain compliant with state law, federal law, and ESA requirements.

Upon reaching the age of majority, your student can choose to become the account holder and assume all the rights and responsibilities of managing their own ESA. However, if your student determines that they want you, the parent or guardian, to retain control of their ESA account as the account holder, your student can sign a power of attorney or you, as the parent or guardian, can obtain a conservatorship through a court proceeding, which is a lengthier process. **Please be advised: A power of attorney is only valid if the adult student has the mental capacity to understand the nature and purpose of the document and can knowingly designate you as the student's power of attorney.**

At age 18, the student or parent must complete one of the following options to continue participation in the ESA program during the current year, to renew an ESA for the coming school year, or to retain an ESA for post-secondary participation. Failure to choose an option below and provide the necessary documentation could result in a hold being placed on the ESA account and/or potentially losing some or all your ESA funds.

Option 1: Retain Parental Control as Account Holder

- The parent or legal guardian will submit either 1.) a **power of attorney** signed by the student and two disinterested witnesses or notarized, OR 2.) a **court order of conservatorship**. Whichever of these two documents is submitted must explicitly state that the following rights have been transferred from the student to the parent or legal guardian:
 - 1) educational decisions regarding placement and participation of the student in the ESA Program; and
 - 2) banking and financial decisions and transactions as limited to management, control, and access of the ESA funds.
- Both a power of attorney and a conservatorship can be executed in advance of the student's 18th birthday but indicate that the effective date of the power of attorney or conservatorship is the student's 18th birthday. This could eliminate the risk of not having either a power of attorney or conservatorship in sufficient time, especially in the case of a conservatorship which takes longer.

The **notarized power of attorney** or **order of conservatorship** must be provided in full to ESA.Questions@tn.gov.

Option 2: Transfer Account Holder to Student

If your student decides to manage his or her own ESA account, the student needs to complete the following documents when he or she reaches age 18 years old:

- ESA Program Application
- Program Assurances
- Account Holder Contract
- Funding Pre-Approval Form
- Family Educational Rights to Privacy Act (FERPA) Waiver
- E-wallet account access

For questions, contact ESA.Questions@tn.gov or see the [contact list](#) on our website.